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SUBJECT: TREASURY DELEGATION ASSESSES RESULTS OF ONGOING USG TAX
REVENUE AND ANTI-MONEY LAUNDERING PROJECTS IN HAITI

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¶1. (U) This message is sensitive but unclassified - please protect accordingly.

¶2. (U) SUMMARY: The Treasury Department's Deputy Assistant Secretary (DAS) for Technical Assistance Policy, Larry McDonald, visited Port au Prince February 4-5 to make an interim assessment of the results of the USG's ongoing tax revenue and anti-money laundering projects in Haiti. DAS McDonald met both formally and informally with a variety of officials from the public sector, as well as representatives of the Haitian private business community. Great progress has been made, but important areas for development remain. END SUMMARY

BACKGROUND

¶3. (U) Haiti relies heavily on USG support; fully half of its annual donor aid of USD800 million comes from the United States, in addition to the USD600 million annual budget of the United Nations Stabilization Mission In Haiti (MINUSTAH), of which the USG is the largest contributor.

¶4. (U) As part of the USG aid package, the Treasury Department's Office of Technical Assistance (OTA), which operates in over 60 countries worldwide, has a Revenue Policy and Revenue Administration Program (the tax revenue project), and an Economic Crimes Program (the anti-money laundering project), currently delivering intermittent technical assistance in Haiti. The tax revenue and anti-money laundering projects are funded primarily by USAID and the DOS Bureau of International Narcotics and Law Enforcement Affairs (INL), respectively.

¶5. (U) The OTA is currently considering expanding its assistance in Haiti to cover fiscal and monetary policy programs. In addition, Post representatives involved in the President's Emergency Plan for AIDS Relief (PEPFAR) in Haiti, which will receive almost USD100 million in USG funding in FY10 and under which Congress has recently tasked the Treasury Department with certain financial project and training responsibilities, discussed receiving budget training and other technical support from OTA.

¶6. (U) The tax revenue project, led by OTA Advisor Charles Shea, works with the Haitian Direction Gnrale des Imptts (General Directorate of Taxes, or DGI) to improve tax administration. Technical assistance and training are aimed at developing methods of increased tax collection, modernizing systems and facilities, and reviewing and revising the Haitian tax code. In late 2007, USAID and OTA agreed to co-fund a three-year tax project (2008-2010) to build on the technical assistance delivered to DGI in prior years. In 2008, USAID contributed 75 percent of the funding (or USD250,000), with the 25 percent balance coming from OTA (USD85,000). In 2009, USAID will again fund USD250,000, and OTA will increase its funding to USD137,000.

¶7. (U) The anti-money laundering project, led by OTA Advisors Fred Borakove and Dave Chainer, has been working for the past five years with a variety of public sector agencies to help build Haiti's capacity to address the investigation of financial crimes, money laundering, and asset seizure and forfeiture. It has facilitated the reorganization of the Unit Centrale de Renseignements Financiers (Central Financial Intelligence Unit, or UCREF), for analysis of financial intelligence, and the resurgence of the Bureau des Affaires Financihres et Economiques (Bureau of Financial and Economic Affairs, or BAFE), the investigatory counterpart to UCREF, under the direction of the Police Nationale d'Haiti (Haitian National Police, or HNP). The anti-money laundering project is currently funded entirely by INL, and continued funding through at least 2011 is anticipated.

¶8. (U) DAS McDonald, accompanied by the OTA's Associate Director for Economic Crimes Carlos Correa and the OTA Advisors, met with Post representatives (from USAID and the Narcotics Affairs, Economic and Political Sections) involved or interested in the tax revenue and anti-money laundering projects. In addition, meetings were held

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with many representatives of the Government of Haiti (GOH), including Minister of Justice Jean Joseph Exum; MinFin Secretary of State Sylvain Lafalaise and members of his staff dealing with budget, tax and customs; DGI Director General Jean Frantz Richard, DGI Deputy Director General Robert Joseph, and Director General Rony Joseph of the Unit de Gestion et de Controle Fiscal (Large Taxpayers' Office, or UGCF); UCREF Director General Jean-Ostricht Hercules and UCREF Deputy Director General Jean Robert Achille; Banque Nationale d'Haiti (Central Bank) Vice Governor Philippe Lahens; and BAFE Commissar Normil Rameau. DAS McDonald also met with members of the Haitian business community at a dinner hosted by the Charg and at a breakfast hosted by the Haitian-American Chamber of Commerce and Industry (AmCham).

TAX REVENUE PROJECT

¶9. (U) DGI Deputy Director General Robert Joseph says that DGI has "benefited to the maximum" from OTA's programs, and now has a strategic plan and an action plan covering the next three and five years, respectively. Initiatives have begun in the areas of revision of the Haitian tax code (including implementing an income level below which a taxpayer is not subject to tax; simplifying the definition of income, including a clear rule that the proceeds of crime are part of the taxable base; and adding criminal penalties for tax fraud and evasion); tax audits and collections (including the development of written procedures manuals and an ethics code); training (in the areas of audit, communication, and management); and taxpayer service and education.

¶10. (U) NOTE: Currently, there is only one provision of Haitian law that criminalizes tax fraud, and it is extremely limited in scope. The existing penalty is applicable only if an accountant has submitted a false tax return on a taxpayer's behalf, and in such case only the accountant is criminally liable. In any other case, the GOH must rely on civil penalties, which thus far have not been widely enforced. DAS McDonald encouraged the GOH to make better use of existing civil penalties, and Minister of Justice Jean Joseph Exum committed to conduct a comprehensive review of existing

legislation to determine the scope of any civil authority that already exists to punish tax fraud and evasion.

¶11. (U) As a direct result of the OTA's technical assistance, UGCF recently conducted an insurance audit training module. UGCF tracked the results of the seminars, and estimated an increase from USD13,000 to USD 124,000 in post-training annual tax revenues at one Haitian insurance company alone. UGCF Director General Rony Joseph attributes the almost tenfold increase directly to the OTA training; "understanding how to tax a specialized industry requires a certain knowledge of that industry, so training is key." The biggest problem, Joseph said, was that the auditors did not know how to interpret the financial statements of insurance companies. Next, UGCF intends to conduct similar training and validation studies for the banking industry, and then either construction or telecommunications.

¶12. (U) The GOH's customs authority does not yet receive direct OTA assistance, but Director General of Customs Jean-Jacques Valentin sees great potential for future collaboration with the Treasury Department. Customs is a big GOH revenue source - second only to DGI - and needs to be "professionally armed to confront challenges at the border." Customs needs help with training (to fight fraud and illicit trafficking), obtaining necessary equipment, and exchanging information ("we cannot manage risk without information"). Customs must facilitate investment and must "be competitive." Valentin believes that a mutual assistance agreement for technical assistance would be appropriate.

¶13. (U) Many GOH representatives (including Minister of Justice Jean Joseph Exum, DGI Deputy Director General Robert Joseph, and Director General of Customs Jean-Jacques Valentin) believe information exchange agreements with the USG would facilitate more efficient operations of their respective agencies, and plan to formally approach Post with such requests. According to OTA, access

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to banking information is the biggest "stumbling block" when negotiating exchange of information agreements. A 2005 Haitian Presidential Decree, Article 63-1, provides a legal mechanism by which DGI can gain access to bank records in cases where a tax audit is being conducted. During DAS McDonald's visit, there was some discussion as to whether this decree is legally enforceable. Minister of Justice Exum confirmed that Article 63-1 has the force of law because when there is no Parliament (as was the case in 2005), the President is authorized to issue decrees that have the force of law. Because Article 63-1 has not been subsequently revised or revoked by Haiti's Parliament, it continues in effect as issued in 2005 and is binding as law. However, DGI Deputy Director General Joseph pointed out that this authority is in practice "difficult to apply," because the law currently in force requires only that a list of all accounts held by persons that are the subject of a tax audit be provided to DGI upon request. However, the contents of these accounts are available only if the taxpayer agrees or DGI obtains authorization from the relevant trial court. This year the Haitian parliament will consider a revised law (based on a model provided by the OTA) that would be easier to enforce.

ANTI-MONEY LAUNDERING PROJECT

¶14. (U) The USG's technical assistance has contributed to several recent successes in the fight against economic crimes. For example, BAFE recently seized USD21 million of assets located in Haiti from Haitian drug dealers convicted in U.S. courts, and is building investigatory expertise and capacity to handle kidnapping and corruption cases relating to financial crimes. Further, UCREF expects to increase its analyst staff from four to fourteen, and is obtaining a "state of the art" electronic system for receiving information from not just banks but also from future reporting entities (for example, gambling establishments, exchange houses, wire transfer providers, microfinance institutions, and advisory firms that deal with financial transactions) and other data sources. In addition, Central Bank examiners are learning to identify potential money laundering violations.

¶15. (U) Minister of Justice Exum explained that while the recent asset seizures were successful, an administrative structure for disbursing funds to GOH actors involved in counternarcotics efforts, including anti-money laundering, needs to be established. To preserve maximum flexibility, the Ministry of Justice and Haitian President Ren Prval will decide periodically on an appropriate percentage of seized assets to be allocated to each relevant agency, based on the budget of each. However, no mechanism currently exists to monetize non-cash receipts, which represent the majority of seizures to date.

¶16. (U) Minister Exum also said that while anti-money laundering and drug trafficking laws have existed since 2001, there is an ongoing lack of clarity regarding procedures. Minister Exum noted that the appointment of judges with specialized knowledge in the subject matter fields (which is not provided for under current law) and nationwide jurisdiction is essential.

¶17. (U) According to UCREF Director General Jean-Ostricht Hercules, UCREF (Haiti's financial intelligence unit, or FIU) and BAFE (the HNP investigatory counterpart to UCREF) have an excellent rapport with each other. They are "two complimentary institutions" with a "dynamic" relationship and a "regular exchange of information" both with each other and with other FIUs in the Caribbean region. UCREF is pursuing negotiations to join the Egmont Group of FIUs, but before being accepted and accredited must finalize its anti-terrorism financing law. The draft legislation, which the OTA anti-money laundering project team has already commented on, is expected to go on the Haitian legislative agenda this year.

PRIVATE SECTOR VIEWS

¶18. (SBU) At%zKo-DOatives of the Haitian public sector not directly involved in the OTA projects, the international community, and the Haitian private sector. Participants included a Central Bank representative; a Haitian legal consultant; a representative of Canadian International Development Agency (CIDA); the President of the Haitian Bankers Association; the CEO of Digicel, the Caribbean's leading cellular provider and Haiti's largest taxpayer; the Chief Economist of Sogebank, Haiti's largest bank; and the Haitian country manager for American Airlines. DAS McDonald told these audiences that the USG's interest in providing technical assistance is not just for the benefit of the public sector; the OTA wants to ensure that legitimate business activity in Haiti is not being undermined. In response, Haitian business leaders told DAS McDonald (in addition to voicing their complaints about DGI inefficiency (see paras 20-23 below)) that they are frustrated by GOH inertia. Digicel's CEO said she tried to negotiate a contract to provide internet service covering 95 percent of the country, but could not obtain a GOH license, with the result that Haitian internet access remains spotty, particularly in rural areas.

¶19. (SBU) AmCham members also reacted strongly against what they view as an external impediment to their livelihoods -the Haiti travel warning issued by the USG in late January, which updated the previous travel warning from April 2008. They feel that the "defer all non-essential travel" message of the travel warning (which, it should be noted, is not substantively different from the April 2008 warning) hampers their ability to conduct business effectively. For example, the Digicel CEO said that Cisco IT technicians must travel from France to render technical assistance at Digicel's offices, since Cisco employees in the United States are not permitted to travel to Haiti due to the travel warning.

¶20. (SBU) 70 percent of the GOH's tax revenue is attributed to UGCF (i.e., from large taxpayers), and UGCF collects 96 percent of what it assesses. As a result, DGI understandably continues to focus on large taxpayers in its effort to expand the taxable base. However, members of the Haitian private business community expressed to DAS McDonald their vehement dissatisfaction that DGI continues to pursue them (who in most cases are already compliant), rather than focusing on other, mostly smaller, taxpayers, who in many cases are completely noncompliant. In 2007, the six biggest taxpayers in Haiti contributed 60 percent of Haiti's overall tax revenue; Digicel alone paid USD24 million.

¶21. (SBU) According to one AmCham member, "tax evasion in Haiti is a national sport." The GOH is "irresponsible" and is incapable of long-term planning. It needs to give "incentives" for small-to-mid-size businesses to "become part of the formal economy" and "create a culture of tax compliance." There is currently no formal appeals process to protest a tax assessment. Fourteen months ago, a group of private sector taxpayers made a written proposal to President Prval for improving the Haitian tax system. To date, they have received no response. According to one AmCham member, "if the GOH does not start doing its job, Haiti's stability is at risk."

¶22. (SBU) Another AmCham member said that the problem of noncompliance is not due to loopholes in the law, but rather to corruption; "the cost of being corrupt is still less than the cost of compliance." Evidence of this is rampant. Tax officials are underpaid because they are unofficially expected to "take a cut" from what they collect. Further, only one public official to date has made a declaration of his net worth; such a declaration is mandatory with respect to a large group of public officials. Finally, certain provisions of currently existing law seem to invite corruption. For example, two accountants are required to certify a company's financial statements, which is literally impossible, since there are only four certified accountants in all of Haiti.

CONCLUSION

¶23. (U) The GOH representatives uniformly recognized, and expressed great appreciation for, the progress that has been made as

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McDonald met with representatives of the Haitian public sector not directly involved in the OTA projects, the international community, and the Haitian private sector. Participants included a Central Bank representative; a Haitian legal consultant; a representative of Canadian International Development Agency (CIDA); the President of the Haitian Bankers Association; the CEO of Digicel, the Caribbean's leading cellular provider and Haiti's largest taxpayer; the Chief Economist of Sogebank, Haiti's largest bank; and the Haitian country manager for American Airlines. DAS McDonald told these audiences that the USG's interest in providing technical assistance is not just for the benefit of the public sector; the OTA wants to ensure that legitimate business activity in Haiti is not being undermined. In response, Haitian business leaders told DAS McDonald (in addition to voicing their complaints about DGI inefficiency (see paras 20-23 below)) that they are frustrated by GOH inertia. Digicel's CEO said she tried to negotiate a contract to provide internet service covering 95 percent of the country, but could not obtain a GOH license, with the result that Haitian internet access remains spotty, particularly in rural areas.

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CONCLUSION

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a result of the OTA projects. Cooperation between the USG and GOH has become closer in the past several years, and the "first fruits" of the OTA projects are evident. DAS McDonald's visit highlighted the need to continue and expand the well-received OTA programs.

¶24. (U) DAS McDonald reflected that all notable successes in USG technical assistance programs share two common factors; first, the USG must be patient in its expectations of results, and second, the relevant GOH actors must have the support of higher GOH leadership. Further, DAS McDonald advised all GOH actors to be flexible and practical in their economic development plans, and to recognize that "small steps that accomplish slow but steady change are better than large ones that go nowhere."

¶25. (SBU) COMMENT: Although much success is evident, important areas for development remain with respect to Haitian financial, economic and revenue policy, practice and implementation. In particular, although the anti-money laundering project GOH actors, especially new Minister of Justice Jean Joseph Exum, are viewed as fully engaged (which will be crucial in moving forward with asset seizures), the tax revenue project GOH participants are perceived as somewhat less engaged and proactive, particularly by the private sector (see paras 20-23 above).

¶26. (U) This cable has been cleared by DAS McDonald.

SANDERSON